

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case
21-CA-121318Date Filed
1-27-14

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer McDonald's Restaurant and McDonald's Corporation		b. Tel. No. (b) (6), (b) (7)(C)
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 1280 12th Street, San Diego, Ca. 92101-4711 2111 McDonald's Dr., Oak Brook, IL. 60523	e. Employer Representative (b) (6), (b) (7)(C)	g. e-Mail
		h. Number of workers employed 25
i. Type of Establishment (factory, mine, wholesaler, etc.) Restaurant	j. Identify principal product or service Food Products	

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

On or about (b) (6), (b) (7)(C) 2013, the employer unlawfully terminated (b) (6), (b) (7)(C) in violation of the National Labor Relations Act because (b) (6) engaged in concerted activity and because (b) (6) participated in the fast food strike on August 29, 2013.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

Los Angeles Organizing Committee

4a. Address (Street and number, city, state, and ZIP code)

P.O. Box 555065
Los Angeles, CA 90055

4b. Tel. No.

4c. Cell No. 213-300-7537

4d. Fax No.

4e. e-Mail

martin.manteca@seiu721.org

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By 
(signature of representative or person making charge)

Fern M. Steiner, Attorney

(Print type name and title or office, if any)

Tel. No.

619-239-7200

Office, if any. Cell No.

619-733-8366

Fax No.

619-239-6048

e-Mail

fsteiner@ssvwlaw.com

Address Smith, Steiner, Vanderpool & Wax, APC, 401 W. A St, Ste 320, SD, Ca 92101-7911 1/24/2014 (date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 21
888 S Figueroa St Fl 9
Los Angeles, CA 90017-5449

Agency Website: www.nlrb.gov
Telephone: (213)894-5204
Fax: (213)894-2778

January 28, 2014

LOS ANGELES ORGANIZING COMMITTEE
PO BOX 555065
LOS ANGELES, CA 90055

Re: MCDONALD'S RESTAURANT AND
MCDONALD'S CORPORATION
Case 21-CA-121318

Dear Sir or Madam:

The charge that you filed in this case on January 27, 2014 has been docketed as case number 21-CA-121318. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner DAVID SELDER whose telephone number is (619)557-3422. The mailing address is 555 West Beech Street, Suite 418, San Diego, CA 92101-2940. If this Board agent is not available, you may contact Resident Officer STEVEN SORENSEN whose telephone number is (619)557-6559.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

January 28, 2014

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website www.nlr.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Olivia Garcia". The signature is fluid and cursive, with the first name "Olivia" and last name "Garcia" clearly distinguishable.

/s/OLIVIA GARCIA
Regional Director

Enclosures

cc: FERN M. STEINER, ATTORNEY AT LAW
SMITH, STEINER, VANDERPOOL AND WAX
401 WEST A STREET, SUITE 320
SAN DIEGO, CA 92101-7911

OG/hta



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 21
888 S Figueroa St Fl 9
Los Angeles, CA 90017-5449

Agency Website: www.nlr.gov
Telephone: (213)894-5204
Fax: (213)894-2778

January 28, 2014

MCDONALD'S RESTAURANT
1280 12TH STREET
SAN DIEGO, CA 92101-4711

MCDONALD'S CORPORATION
2111 MCDONALD'S DRIVE
OAK BROOK, IL 60523

Re: MCDONALD'S RESTAURANT AND
MCDONALD'S CORPORATION
Case 21-CA-121318

Dear Sir or Madam:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner DAVID SELDER whose telephone number is (619)557-3422. The mailing address is 555 West Beech Street, Suite 418, San Diego, CA 92101-2940. If this Board agent is not available, you may contact Resident Officer STEVEN SORENSEN whose telephone number is (619)557-6559.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

January 28, 2014

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



/s/OLIVIA GARCIA
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

OG/hta

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**MCDONALD'S RESTAURANT AND
MCDONALD'S CORPORATION**

Charged Party

and

LOS ANGELES ORGANIZING COMMITTEE

Charging Party

Case 21-CA-121318

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on January 28, 2014, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

MCDONALD'S RESTAURANT
1280 12TH STREET
SAN DIEGO, CA 92101-4711

MCDONALD'S CORPORATION
2111 MCDONALD'S DRIVE
OAK BROOK, IL 60523

January 28, 2014

Date

Linda Barbee, Designated Agent of NLRB

Name

/s/Linda Barbee

Signature

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME MCDONALD'S RESTAURANT AND MCDONALD'S CORPORATION**CASE NUMBER** 21-CA-121318**1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)****2. TYPE OF ENTITY**☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)**3. IF A CORPORATION or LLC**A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS**5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR****6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).****7. A. PRINCIPAL LOCATION:****B. BRANCH LOCATIONS:****8. NUMBER OF PEOPLE PRESENTLY EMPLOYED**

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates)A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$

YES

NO

B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.
\$F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$**H. Gross Revenues from all sales or performance of services (Check the largest amount):**☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.

I. Did you begin operations within the last 12 months? If yes, specify date: _____

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?☐ YES ☐ NO (If yes, name and address of association or group).**11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS**

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

Revised 3/21/2011

NATIONAL LABOR RELATIONS BOARD

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME MCDONALD'S RESTAURANT AND MCDONALD'S CORPORATION

CASE NUMBER 21-CA-121318

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

Sutherland Management Company LLC, 2570 Catamaran Way, Chula Vista, California 91914

2. TYPE OF ENTITY

☐ CORPORATION ☒ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION
OR FORMATION CaliforniaB. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
N/A

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

Robert R. Sutherland and Susan K. Sutherland as Trustees of the Sutherland Living Trust dated August 9, 1985

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed)

Restaurant

7. A. PRINCIPAL LOCATION:

2570 Catamaran Way, Chula Vista, CA 91914

B. BRANCH LOCATIONS:

See "Attachment 1"

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. Total: ~500

B. At the address involved in this matter: ~65

9. DURING THE MOST RECENT (Check appropriate box): ☒ CALENDAR YR. ☐ 12 MONTHS or ☐ FISCAL YR. (If Y dates)

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ 0		<input checked="" type="checkbox"/>
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ 0		<input checked="" type="checkbox"/>
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ 0		<input checked="" type="checkbox"/>
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ 0		<input checked="" type="checkbox"/>
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ 0		<input checked="" type="checkbox"/>
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ 0		<input checked="" type="checkbox"/>
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$	<input checked="" type="checkbox"/>	
H. Gross Revenues from all sales or performance of services (Check the largest amount): <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input checked="" type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		<input checked="" type="checkbox"/>

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☒ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME James M. Peterson

TITLE

Counsel of Record

E-MAIL ADDRESS

peterson@higgslaw.com & boniske@higgslaw.com

TEL. NUMBER

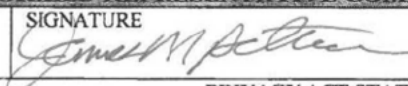
(619) 236-1551

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

James M. Peterson

SIGNATURE



E-MAIL ADDRESS

peterson@higgslaw.com & boniske@higgslaw.com

DATE

02/11/2013

PRIVACY ACT STATEMENT

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“ATTACHMENT 1” TO QUESTIONNAIRE ON COMMERCE INFORMATION

Los Angeles Organizing Committee v. McDonald's Restaurant and McDonald's Corporation
Case No. 21-CA-121318
NLRB, Region 21

Response to Question No. 8:

1260 Park Blvd., San Diego, CA 92101
4340 Bonita Rd., Bonita, CA 91902
5824 Montezuma Rd., San Diego, CA 92115
551 Telegraph Canyon Rd., Chula Vista, CA 91910
2345 El Cajon Blvd., San Diego, CA 92104
Balboa Naval Hospital, Building G-1, San Diego, CA 92134
Naval Amphibious Base Coronado, Guadalcanal Rd., San Diego, CA 92155
2254 Otay Lakes Rd., Chula Vista, CA 91915
687 East Palomar St., Chula Vista, CA 91911
Naval Base San Diego, Building 3301, San Diego, CA 92136

From: [Fern Steiner](#)
To: [Selder, David](#)
Subject: RE: McDonald's, 21-CA-121318
Date: Wednesday, February 12, 2014 6:49:12 PM
Attachments: [image002.jpg](#)
[image003.jpg](#)

I know and I am working on it.



401 West A Street
Suite 320
San Diego, CA 92101
Telephone: 619-239-7200
Telephone: 760-755-7088
Fax: 619-239-6048
Email: fsteiner@ssvwlaw.com
Website: www.ssvwlaw.com

CELEBRATING THE FIRM'S 30TH YEAR IN 2013

NOTICE: The information contained in this electronic mail and any attachments is intended for the exclusive use of the addressee(s) and may contain confidential, privileged, and/or proprietary information. Any other use of these materials is strictly prohibited. If you have received these materials in error, please notify me immediately by telephone and destroy all electronic, paper or other versions. No representation is made by the sender that any e-mails and/or attachments are virus free, and are used at the intended recipient's sole risk. Unauthorized interception of this e-mail is a violation of federal criminal law.

From: Selder, David [<mailto:David.Selder@nlrb.gov>]
Sent: Wednesday, February 12, 2014 3:40 PM
To: Fern Steiner
Subject: RE: McDonald's, 21-CA-121318

OK. I'll try to keep those dates open. I should really try to have the evidence by next week. Thanks.

From: Fern Steiner [<mailto:FSteiner@ssvwlaw.com>]
Sent: Wednesday, February 12, 2014 3:29 PM
To: Selder, David
Subject: RE: McDonald's, 21-CA-121318

I just was corresponding re a date – unfortunately the dates (b) (6) gave me are no good. I asked (b) (6), (b) (6) to look at the (b) (6), (b) (7)(C)

I have to amend the charge to change the name of who is filing. (b) (6) lives in (b) so corresponding is not so easy.

Thanks



401 West A Street
Suite 320
San Diego, CA 92101
Telephone: 619-239-7200
Telephone: 760-755-7088
Fax: 619-239-6048
Email: fsteiner@ssvwlaw.com
Website: www.ssvwlaw.com

CELEBRATING THE FIRM'S 30TH YEAR IN 2013

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From: Selder, David [<mailto:David.Selder@nlrb.gov>]
Sent: Wednesday, February 12, 2014 3:27 PM
To: Fern Steiner
Subject: McDonald's, 21-CA-121318

Hi Fern. Any word on the availability of the witness in this case? Does the Union still want to pursue the charge?



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 21
555 W Beech St Ste 418
San Diego, CA 92101-2940

Agency Website: www.nlrb.gov
Telephone: (619)557-6184
Fax: (619)557-6358

Agent's Direct Dial: (619)557-3422

February 20, 2014

BY EMAIL ONLY

James M. Peterson, Attorney at Law
Edwin M. Boniske, Attorney at Law
Higgs Fletcher & Mack
401 W A St Ste 2600
San Diego, CA 92101-7913

George S. Howard, Jr., Attorney at Law
Jones Day
12265 El Camino Real Ste 300
San Diego, CA 92130-4096

Doreen S. Davis, Attorney at Law
Jones Day
222 East 41st Street
New York, NY 10017-6702

Re: MCDONALD'S RESTAURANT AND
MCDONALD'S CORPORATION
Case 21-CA-121318

Gentlepersons:

This letter is to request the Charged Parties' evidence regarding the allegations raised in the investigation of the above-captioned matter. As explained below, I am requesting to receive the Charged Parties' evidence, including any affidavits, on or before Wednesday, March 5, 2014, with regard to certain allegations in this case.

Allegations: The allegations for which I am seeking the Charged Parties' evidence are as follows.

1. The Charging Party contends that the Charged Parties are joint employers inasmuch as they share or codetermine essential terms and conditions of employment of the employees working at the McDonald's restaurant franchises operated by Sutherland Management Company LLC in San Diego, California.

2. In or about August 2013, prior to the one-day strike referred to as the "Fight for 15" that occurred on or about August 29, 2013, employee (b) (6), (b) (7)(C) told coworkers that (b) (6) was going to participate in the strike and invited them to attend.
3. About two to three days before the one-day strike, (b) (6), (b) (7)(C) (Name unknown) approached (b) (6), (b) (7)(C) in the lobby and told (b) (6), (b) (7)(C) that (b) (6) did not want (b) (6), (b) (7)(C) talking to people about strikes.
4. (b) (6), (b) (7)(C) participated in the one-day strike as part of the Fight for 15 protest on or about August 29, 2013.
5. On or about (b) (6), (b) (7)(C) 2013, (b) (6), (b) (7)(C) approached (b) (6), (b) (7)(C) raised (b) (6), (b) (7)(C) fists and asked (b) (6), (b) (7)(C) if (b) (6), (b) (7)(C) wanted to (b) (6), (b) (7)(C) in reference to (b) (6), (b) (7)(C) recent participation in the Fight for 15 protest.
6. The Charging Party contends that the Charged Parties attempted to terminate (b) (6), (b) (7)(C) in retaliation for (b) (6), (b) (7)(C) participation in the Fight for 15 protest on two separate occasions in (b) (6), (b) (7)(C) 2013, before eventually terminating (b) (6), (b) (7)(C) in (b) (6), (b) (7)(C) 2013.
7. In or about the (b) (6), (b) (7)(C) 2013, after (b) (6), (b) (7)(C) refused to check a refrigeration line as instructed by (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) and the (b) (6), (b) (7)(C) advised (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) could be fired for refusing to perform the work.
8. About one week later, in or about the (b) (6), (b) (7)(C) 2013, (b) (6), (b) (7)(C) and the (b) (6), (b) (7)(C) accused (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) and advised (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) would be fired for the infraction. When (b) (6), (b) (7)(C) denied the conduct, they allowed (b) (6), (b) (7)(C) to return to work.
9. On or about (b) (6), (b) (7)(C) 2013, the (b) (6), (b) (7)(C) sent (b) (6), (b) (7)(C) home after (b) (6), (b) (7)(C) retrieved and attempted to (b) (6), (b) (7)(C) in the restaurant. The Charging Party contends that (b) (6), (b) (7)(C) sought to (b) (6), (b) (7)(C) before and after (b) (6), (b) (7)(C) retrieved it, but that (b) (6), (b) (7)(C), on both occasions, instructed the cashier not to accept the transaction.
10. On or about (b) (6), (b) (7)(C), 2013, the Charged Parties terminated (b) (6), (b) (7)(C) for the same alleged misconduct. The Charging Party denies that (b) (6), (b) (7)(C) or otherwise engaged in any inappropriate conduct and asserts that (b) (6), (b) (7)(C) attempted to (b) (6), (b) (7)(C) both before and after (b) (6), (b) (7)(C) retrieved it and (b) (6), (b) (7)(C) (the Charging Party further contends that the security footage would also show (b) (6), (b) (7)(C) attempt to (b) (6), (b) (7)(C) before (b) (6), (b) (7)(C) retrieved it). Moreover, the Charging Party asserts that (b) (6), (b) (7)(C) and other employees regularly (b) (6), (b) (7)(C) (i.e., after having already received it) and that neither (b) (6), (b) (7)(C) nor any other employees were similarly disciplined or terminated for that conduct.

Board Affidavits: I am requesting to take affidavits from (b) (6), (b) (7)(C) _____ and other individuals you believe have information relevant to the investigation of the above-captioned matter. If you do not allow the Board agent to take sworn affidavits from representatives who may have relevant information, the Agency will consider that to constitute less than complete cooperation in the investigation of the charge.

Date for Submitting Evidence: To resolve this matter as expeditiously as possible, you are requested to present your evidence in this matter by Wednesday, March 5, 2014. Electronic filing of position statements and documentary evidence through the Agency website is preferred but not required. To file electronically, go to www.nlr.gov, select **File Case Documents**, enter the **NLRB case number**, and follow the detailed instructions. If I have not received all your evidence by that time or spoken with you and agreed to another date, it will be necessary for me to make my recommendations based upon the information available to me at that time.

Please contact me at your earliest convenience by telephone, (619)557-3422, or e-mail, david.selder@nlrb.gov, so that we can discuss how you would like to provide evidence and I can answer any questions you have with regard to the issues in this matter.

Very truly yours,

DAVID SELDER
Field Examiner

FORM EXEMPT UNDER 44 U.S.C 3512

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

First Amended

DO NOT WRITE IN THIS SPACE

Case

Date Filed

21-CA-121318

2-21-14

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer

McDonald's Restaurant and McDonald's Corporation

b. Tel. No. (b) (6), (b) (7)(C)

c. Cell No.

f. Fax No.

d. Address (Street, city, state, and ZIP code)

1280 12th Street, San Diego, CA 92101-4711

2111 McDonald's Dr., Oak Brook, IL 60523

e. Employer Representative

(b) (6), (b) (7)(C)

g. e-Mail

h. Number of workers employed
25i. Type of Establishment (factory, mine, wholesaler, etc.)
Restaurantj. Identify principal product or service
Food Products

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

On or about (b) (6), (b) (7)(C) 2013, the employer unlawfully terminated (b) (6), (b) (7)(C) in violation of the National Labor Relations Act because (b) (6) engaged in concerted activity and because (b) (6) participated in the fast food strike on August 29, 2013

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
Western Workers Organizing Committee

4a. Address (Street and number, city, state, and ZIP code)

2501 International Boulevard
Suite D
Oakland, CA. 94601

4b. Tel. No.

4c. Cell No.

4d. Fax No.

4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)**6. DECLARATION**

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By

(signature of representative or person making charge)

Fern M. Steiner, Attorney

(Print type name and title or office, if any)

Tel. No.

619-239-7200

Office, if any, Cell No.

Fax No. 619-239-6048

e-Mail

fsteiner@ssvwlaw.com

Smith, Steiner, Vanderpool & Wax, APC, 401 W. A St, Ste 320, SD, CA 2/19/2014

Address

92101-4711

(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 21
888 S Figueroa St Fl 9
Los Angeles, CA 90017-5449

Agency Website: www.nlrb.gov
Telephone: (213)894-5204
Fax: (213)894-2778

February 21, 2014

LOS ANGELES ORGANIZING COMMITTEE
PO BOX 555065
LOS ANGELES, CA 90055

Re: MCDONALD'S RESTAURANT AND
MCDONALD'S CORPORATION
Case 21-CA-121318

Dear Sir or Madam:

We have docketed the first amended charge that you filed in this case.

Investigator: This charge is being investigated by Field Examiner DAVID SELDER whose telephone number is (619) 557-3422. The mailing address is 555 West Beech Street, Suite 418, San Diego, CA 92101-2940. If the agent is not available, you may contact Resident Officer STEVEN SORENSEN whose telephone number is (619)557-6559.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

Procedures: Your right to representation, the means of presenting evidence, and a description of our procedures, including how to submit documents, was described in the letter sent to you with the original charge in this matter. If you have any questions, please contact the Board agent.

Very truly yours,

D. Bruce Hill

/S/D. BRUCE HILL
Acting Regional Director

Enclosure: Copy of first amended charge

cc: FERN M. STEINER, ATTORNEY AT LAW
SMITH, STEINER, VANDERPOOL AND WAX
401 WEST A STREET, SUITE 320
SAN DIEGO, CA 92101-7911

DBH/hta



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 21
888 S Figueroa St Fl 9
Los Angeles, CA 90017-5449

Agency Website: www.nlrb.gov
Telephone: (213)894-5204
Fax: (213)894-2778

February 21, 2014

MCDONALD'S RESTAURANT AND MCDONALD'S
CORPORATION
1280 12TH STREET
SAN DIEGO, CA 92101-4711

MCDONALD'S RESTAURANT AND MCDONALD'S
CORPORATION
2111 MCDONALD'S DRIVE
OAK BROOK, IL 60523

Re: MCDONALD'S RESTAURANT AND
MCDONALD'S CORPORATION
Case 21-CA-121318

Dear Sir or Madam:

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Examiner DAVID SELDER whose telephone number is (619) 557-3422. The mailing address is 555 West Beech Street, Suite 418, San Diego, CA 92101-2940. If the agent is not available, you may contact Resident Officer STEVEN SORENSEN whose telephone number is (619) 557-6559.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Procedures: Your right to representation, the means of presenting evidence, and a description of our procedures, including how to submit documents, was described in the letter sent to you with the original charge in this matter. If you have any questions, please contact the Board agent.

Very truly yours,

D. Bruce Hill

/S/D. BRUCE HILL
Acting Regional Director

Enclosure: Copy of first amended charge

cc: (See next page.)

MCDONALD'S RESTAURANT AND
MCDONALD'S CORPORATION
Case 21-CA-121318

- 2 -

February 21, 2014

cc: JAMES M. PETERSON, ATTORNEY AT LAW
EDWIN M. BONISKE, ATTORNEY AT LAW
HIGGS FLETCHER & MACK
401 WEST A STREET, SUITE 2600
SAN DIEGO, CA 92101

GEORGE S. HOWARD, ATTORNEY AT LAW
JONES DAY
12265 EL CAMINO REAL, SUITE 300
SAN DIEGO, CA 92130-4096

DOREEN S. DAVIS, ATTORNEY AT LAW
JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017-6702

DBH/hta

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

MCDONALD'S RESTAURANT

Charged Party

and

LOS ANGELES ORGANIZING COMMITTEE

Charging Party

Case 21-CA-121318

AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on February 21, 2014, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

MCDONALD'S RESTAURANT AND
MCDONALD'S
CORPORATION
1280 12TH STREET
SAN DIEGO, CA 92101-4711

MCDONALD'S RESTAURANT AND
MCDONALD'S
CORPORATION
2111 MCDONALD'S DRIVE
OAK BROOK, IL 60523

JAMES M. PETERSON, ATTORNEY AT LAW
EDWIN M. BONISKE, ATTORNEY AT LAW
HIGGS FLETCHER & MACK
401 WEST A STREET, SUITE 2600
SAN DIEGO, CA 92101

GEORGE S. HOWARD, ATTORNEY AT LAW
JONES DAY
12265 EL CAMINO REAL, SUITE 300
SAN DIEGO, CA 92130-4096

DOREEN S. DAVIS, ATTORNEY AT LAW
JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017-6702

February 21, 2014

Date

Linda Barbee, Designated Agent of NLRB

Name

/S/Linda Barbee

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

(CORRECTED COPY)

REGION 21
888 S Figueroa St Fl 9
Los Angeles, CA 90017-5449

Agency Website: www.nlrb.gov
Telephone: (213)894-5204
Fax: (213)894-2778

February 21, 2014

WESTERN WORKERS ORGANIZING COMMITTEE
2501 INTERNATIONAL BOULEVARD,
SUITE D
OAKLAND, CA 94601

Re: MCDONALD'S RESTAURANT AND
MCDONALD'S CORPORATION
Case 21-CA-121318

Dear Sir or Madam:

We have docketed the first amended charge that you filed in this case.

Investigator: This charge is being investigated by Field Examiner DAVID SELDER whose telephone number is (619) 557-3422. The mailing address is 555 West Beech Street, Suite 418, San Diego, CA 92101-2940. If the agent is not available, you may contact Resident Officer STEVEN SORENSEN whose telephone number is (619)557-6559.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

Procedures: Your right to representation, the means of presenting evidence, and a description of our procedures, including how to submit documents, was described in the letter sent to you with the original charge in this matter. If you have any questions, please contact the Board agent.

Very truly yours,

D. Bruce Hill

/S/D. BRUCE HILL

Acting Regional Director

Enclosure: Copy of first amended charge

cc: FERN M. STEINER, ATTORNEY AT LAW
SMITH, STEINER, VANDERPOOL AND WAX
401 WEST A STREET, SUITE 320
SAN DIEGO, CA 92101-7911

DBH/hta

From: [Pate, William](#)
To: [Sorensen, Steven J.](#); [Selder, David](#)
Cc: [Garcia, Olivia](#)
Subject: McDonald's Restaurant, et al., CA-121318
Date: Tuesday, March 11, 2014 4:00:37 PM

I recorded that (b) (5) .

From: [Hill, Bruce](#)
To: [Garcia, Olivia](#); [Pate, William](#); [Sorensen, Steven J.](#); [Selder, David](#)
Subject: FW: FIR, 21-CA-121318, McDonald's
Date: Tuesday, April 22, 2014 4:54:22 PM

You may solicit withdrawal.

From: Dunham, Geoffrey
Sent: Tuesday, April 22, 2014 1:30 PM
To: Hill, Bruce
Cc: Leach, David E.
Subject: RE: FIR, 21-CA-121318, McDonald's

Bruce, Region 2 has affirmed your decision to dismiss. OK to process. Geoff

From: Hill, Bruce
Sent: Tuesday, April 22, 2014 12:43 PM
To: Hill, Bruce; Leach, David E.; Dunham, Geoffrey
Subject: RE: FIR, 21-CA-121318, McDonald's

Found email in which I forwarded this case. Any word on it?

From: Hill, Bruce
Sent: Monday, March 24, 2014 5:35 PM
To: Leach, David E.; Dunham, Geoffrey
Cc: Tursell, Beth
Subject: FIR, 21-CA-121318, McDonald's

(b) (5) [REDACTED]. Affidavit and other evidence is in NxGen.
Please let me know if you want to discuss or if you concur. Thanks.

From: [Selder, David](#)
To: ["Fern Steiner"](#)
Subject: McDonald's Restaurant and McDonald's Corporation, Case 21-CA-121318
Date: Tuesday, April 22, 2014 5:17:00 PM

Fern:

This is to advise you that the Region has completed its investigation of this case and that dismissal of the charge, absent withdrawal, has been authorized.

While it is undisputed that (b) (6), (b) (7)(C) participated in the August 29 protest and that the local franchise was aware of that activity, there is little evidence that McDonald's harbored animus towards that activity or that the timing of (b) (6) termination was related to that activity. Rather, (b) (6), (b) (7)(C) termination appears to be directly related to (b) (6) undisputed conduct in (b) (6), (b) (7)(C) , in violation of the food policy.

To the extent that the Charging Party contends that the (b) (6), (b) (7)(C) termination was actually the third attempt to terminate (b) (6), (b) (7) following (b) (6) participation in the protest, the investigation disclosed that, with respect to the first such alleged incident, McDonald's did not attempt to terminate (b) (6), (b) (7) or otherwise discipline (b) (6), (b) (7) for (b) (6) undisputed refusal to perform an assigned task. Rather, McDonald's advised (b) (6), (b) (7) that it would find someone else to do it. As to the second incident, when McDonald's accused (b) (6), (b) (7) of violating its no-smoking policy, once (b) (6), (b) (7) denied the conduct, McDonald's did not pursue the matter and no further action was taken.

Finally, even assuming that there was an arguable prima facie case, the Region concluded that the evidence established that McDonald's would have terminated (b) (6), (b) (7) under the circumstances even in the absence of any protected activity.

Accordingly, dismissal of the charge, absent withdrawal, has been authorized.

In the event that your client wishes to withdraw the charge, please notify me by Friday, April 25, 2014.

If your client does not wish to withdraw, please advise me by that same date if you would like the Region to issue the short- or long-form dismissal letter in this case.

Thanks very much.

David

FORM NLRB-4549 (3-89)		NATIONAL LABOR RELATIONS BOARD	
INFORMATION TO CHARGING PARTY ON REASONS FOR PROPOSED DISMISSAL			
Case Name McDonald's Restaurant and McDonald's Corporation		Case Number 21-CA-121318	
Regional determination (Date) 3/11/14		to dismiss, absent withdrawal. Reason Code No (See Reverse)	
Was contact with charging party <input type="checkbox"/> or attorney <input checked="" type="checkbox"/> ?			
Were the reasons for proposed dismissal in absence of withdrawal given in detail? on (Date) 4/22/14 <input type="checkbox"/> In person <input type="checkbox"/> By telephone <input checked="" type="checkbox"/> In writing		No <input type="checkbox"/> Yes <input checked="" type="checkbox"/>	
Reasons given: (Unless included in dismissal letter)			
<p>Your charge alleges that the Employers terminated (b) (6), (b) (7)(C) on or about (b) (6), (b) (7)(C) 2013 because (b) (6) engaged in concerted activity and because (b) (6) participated in the fast food strike on August 29, 2013. The evidence, however, fails to establish that the (b) (6), (b) (7) was terminated in retaliation for (b) (6) participation in the August 29, 2013 strike or for any other concerted activity in which (b) (6) may have engaged. In this regard, while the local McDonald's franchise may have been aware of (b) (6), (b) (7)(C) participation in the strike, the evidence fails to establish that the local franchise or the other Charged Party Employer harbored animus towards (b) (6), (b) (7) for engaging in that activity or that the timing of (b) (6), (b) (7)(C) discharge was related to that activity. Rather, it appears that (b) (6), (b) (7) was terminated for (b) (6) undisputed conduct on or about (b) (6), (b) (7)(C) 2013, in (b) (6), (b) (7)(C) in violation of the local franchise's food policy. Finally, while the evidence presented does not establish a joint or single employer relationship between the Charged Party Employers in this case, a determination on that issue is unnecessary in light of the conclusion that the charge allegations lack merit.</p>			
H:\R21com\COM\DISMISS\121318.doc			
On refusal to withdraw, was the charging party <input type="checkbox"/> or attorney <input checked="" type="checkbox"/> informed, pursuant to outstanding instructions, that a summary report setting forth the reasons for dismissal would be included in the dismissal letter unless the charging party or the attorney specifically stated no such report was desired? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
If not, why?			
Was the offer of a summary report in dismissal letter rejected by the charging party <input type="checkbox"/> or attorney <input checked="" type="checkbox"/> ? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Was the charging party <input type="checkbox"/> or attorney <input checked="" type="checkbox"/> informed that the charged party would receive a copy of the dismissal letter? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
WITHDRAWAL SOLICITED <input checked="" type="checkbox"/> Code 1	CASE CLOSED Prior to or early in investigation <input type="checkbox"/> Code 1 After substantial investigation <input type="checkbox"/> Code 2 After completion of investigation <input checked="" type="checkbox"/> Code 3	SUBSTANTIALLY ALL CHARGING PARTY'S WITNESSES CONTACTED Yes <input checked="" type="checkbox"/> Code 1 No <input type="checkbox"/> Code 2	SUBSTANTIALLY ALL RESPONDENT'S WITNESSES CONTACTED Yes <input checked="" type="checkbox"/> Code 1 No <input type="checkbox"/> Code 2
WITHDRAWAL UNSOLICITED <input type="checkbox"/> Code 2			
ENTER CODES 1	3	1	1
Board Agent: <i>[Signature]</i>		Supervisor: <i>Steven J. Lorenson</i> (4/24/14)	

95cf



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 21
888 S Figueroa St Fl 9
Los Angeles, CA 90017-5449

Agency Website: www.nlrb.gov
Telephone: (213)894-5204
Fax: (213)894-2778

April 25, 2014

FERN M. STEINER, ATTORNEY AT LAW
SMITH, STEINER, VANDERPOOL AND WAX
401 WEST A STREET, SUITE 320
SAN DIEGO, CA 92101-7911

Re: MCDONALD'S RESTAURANT AND
MCDONALD'S CORPORATION
Case 21-CA-121318

Dear Mr. Steiner:

We have carefully investigated and considered your charge that MCDONALD'S RESTAURANT and MCDONALD'S CORPORATION have violated the National Labor Relations Act.

Decision to Dismiss: Your charge alleges that the Employers terminated (b) (6), (b) (7)(C) on or about (b) (6), (b) (7)(C), 2013, because (b) (6) engaged in concerted activity and because (b) (6), (b) (7)(C) participated in the fast food strike on August 29, 2013. The evidence, however, fails to establish that the (b) (6), (b) (7)(C) was terminated in retaliation for (b) (6), (b) (7)(C) participation in the August 29, 2013 strike or for any other concerted activity in which (b) (6) may have engaged. In this regard, while the local McDonald's franchise may have been aware of (b) (6), (b) (7)(C) participation in the strike, the evidence fails to establish that the local franchise or the other Charged Party Employer harbored animus towards (b) (6), (b) (7)(C) for engaging in that activity or that the timing of (b) (6), (b) (7)(C) discharge was related to that activity. Rather, it appears that (b) (6), (b) (7)(C) was terminated for (b) (6), (b) (7)(C) undisputed conduct on or about (b) (6), (b) (7)(C), 2013, in (b) (6), (b) (7)(C) in violation of the local franchise's food policy. Finally, while the evidence presented does not establish a joint or single employer relationship between the Charged Party Employers in this case, a determination on that issue is unnecessary in light of the conclusion that the charge allegations lack merit.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals. If you appeal, you may use the enclosed Appeal Form, which is also available at www.nlrb.gov. However, you are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. Filing an appeal electronically is preferred but not required. The appeal MAY NOT be filed by fax or email. To file an appeal electronically, go to the Agency's website at www.nlrb.gov, click on **E-File Documents**, enter the **NLRB Case Number**, and follow the detailed instructions. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1099 14th**

Street, N.W., Washington D.C. 20570-0001. Unless filed electronically, a copy of the appeal should also be sent to me.

Appeal Due Date: The appeal is due on **May 9, 2014**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than May 8, 2014. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before May 9, 2014**. The request may be filed electronically through the ***E-File Documents*** link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after May 9, 2014, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

OLIVIA GARCIA
Regional Director

Enclosure

cc: (see next page)

cc: JAMES M. PETERSON, ATTORNEY AT LAW
HIGGS FLETCHER & MACK
401 W A ST STE 2600
SAN DIEGO, CA 92101-7913

EDWIN M. BONISKE, ATTORNEY AT LAW
HIGGS FLETCHER & MACK
401 WEST A STREET, SUITE 2600
SAN DIEGO, CA 92101

MCDONALD'S RESTAURANT
1280 12TH STREET
SAN DIEGO, CA 92101-4711

GEORGE S. HOWARD, ATTORNEY AT LAW
JONES DAY
12265 EL CAMINO REAL STE 300
SAN DIEGO, CA 92130-4096

DOREEN S. DAVIS, ATTORNEY AT LAW
JONES DAY
222 E 41ST ST
NEW YORK, NY 10017-6702

MCDONALD'S CORPORATION
2111 MCDONALD'S DRIVE
OAK BROOK, IL 60523

WESTERN WORKERS ORGANIZING COMMITTEE
2501 INTERNATIONAL BOULEVARD, SUITE D
OAKLAND, CA 94601

OG/fb

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
Room 8820, 1099 - 14th Street, N.W.
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)

Case Name: MCDONALD'S RESTAURANT AND MCDONALD'S CORPORATION
Case No. 21-CA-121318
Agent: Field Examiner DAVID SELDER

CASEHANDLING LOG

[illegible]